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PHUNG, LUAT

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/810,302	NGUYEN ET AL.
	Examiner	Art Unit	
	LUAT PHUNG	2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 May 2009</u>.

2a)☒ This action is **FINAL**.　　2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-24</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-24</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   Applicant's arguments filed on May 1, 2009 have been fully considered but they are not persuasive.

2.   On page 11, Applicants argue that:

The VoIP calls are not directed to the gatekeeper 14 of Baj. The VoIP calls are directed to destination phone 24.

Examiner respectfully disagrees.

As a recap of the rejection of claim 1, Baj discloses a test controller (gatekeeper per Fig. 2, element 14) configured to receive a test call initiation message directed to the test controller from an originating terminal (Fig. 3; para. 27, 31, 39; VoIP client, as originating terminal, sends a request, i.e., a test call initiation message, to the gatekeeper, which routes the incoming VoIP call to specified destination; the call is to establish transmission path for testing voice quality of VoIP network; Fig. 1; para. 26-29; VoIP call from client server 20 goes to gatekeeper which provides call-control services and routes calls to one of gateways).

In Baj, the request to establish the test call is sent to the gatekeeper (from which the test call is established to the destination phone). I.e., the prior art discloses a test call initiation message directed to the test controller as claimed.

Furthermore Goodman discloses a phone number being used by an initiator test probe, i.e., test controller, to initiate a test call to the other test probe by having the test

call set up over the VoIP network via the VoIP gateway, which establishes the voice

path as it is well known in the art, using VoIP protocols such as H.323, SIP and MGCP.

(col. 1, lines 22+; col. 3, lines 52+; col. 5, lines 34-46).

In Goodman, the phone number is directed to the test probe which instructs the

gateway to set up the test call. Thus the prior art teaches a test call initiation message

directed to the test controller as claimed.

3.   On page 12, Applicants argue that:

The test tool 22 of Baj simply retrieves audio files and plays them. The test tool

22 of Baj does not prompt the telecommunication device to allocate one of the voice

paths within a telecommunication device for a test call based on a test call initiation

message.

Examiner respectfully disagrees.

As a recap of the rejection of claim 1, Baj discloses the test controller prompting

the telecommunication device (gateway per Fig. 2, element 13b; gatekeeper route

incoming call to one of gateways per para. 27; it is well known to one of ordinary skill in

the art at the time of the invention that the gatekeeper interfaces with the gateway to

establish communications paths via standards VoIP protocols such as H.323, MGCP

and RTP) to allocate one of the voice paths within the telecommunication device for a

test call based on the test call initiation message (para. 27, 33, 34, 39; establishing

transmission path by gateway between VoIP client and destination phone; VoIP client

executing call initiation scripts and sending a request to place a series of calls through
gateway, i.e., plurality of voice paths within the gateway).

In Baj, the gateway routes the test call to a destination according to the
destination address in the test call request, by instructing the gateway to establish a
transmission path to set up the test call. I.e., the prior art teaches the test controller to
prompt the telecommunication device to allocate one of the voice paths within a
telecommunication device for a test call based on a test call initiation message.

4.   On page 13, Applicants argue that:

Bai does not disclose a test call origination message as recited in Claim 1.

Examiner respectfully disagrees.

As a recap of the rejection of claim 1, Baj discloses a test controller (gatekeeper
per Fig. 2, element 14) configured to receive a test call initiation message directed to
the test controller from an originating terminal (Fig. 3; para. 27, 31, 39; VoIP client, as
originating terminal, sends a request, i.e., a test call initiation message, to the
gatekeeper, which routes the incoming VoIP call to specified destination; the call is to
establish transmission path for testing voice quality of VoIP network; Fig. 1; para. 26-29;
VoIP call from client server 20 goes to gatekeeper which provides call-control services
and routes calls to one of gateways), to prompt the telecommunication device (gateway
per Fig. 2, element 13b; gatekeeper route incoming call to one of gateways per para.
27; it is well known to one of ordinary skill in the art at the time of the invention that the
gatekeeper interfaces with the gateway to establish communications paths via

standards VoIP protocols such as H.323, MGCP and RTP) to allocate one of the voice

paths within the telecommunication device for a test call based on the test call initiation

message (para. 27, 33, 34, 39; establishing transmission path by gateway between

VoIP client and destination phone; VoIP client executing call initiation scripts and

sending a request to place a series of calls through gateway, i.e., plurality of voice paths

within the gateway), and to establish a call connection for the test call between the

originating terminal and a destination terminal via the allocated voice path and a packet-

switched network to test the allocated voice path. (first establishing a transmission path

between the VoIP client and destination phone, then testing the quality of voice

transmissions per para. 31, 34)

In Baj, a request to establish a test call is sent to the gateway which routes the

call to the destination phone by having the gateway allocating a transmission path

between the VoIP and destination phone in order the test voice path quality. Thus the

prior art teaches a test controller configured to receive a test call initiation message, and

a voice path is allocated based on the test call initiation message, as claimed.

5.   On page 14, Applicants argue that:

The test calls of Goodman are not test call origination message in that voice

paths within a telecommunication device are not allocated based on the test calls of

Goodman.

Examiner respectfully disagrees.

As a recap of the rejection of claim 1, Goodman discloses a phone number being used by an initiator test probe, i.e., test controller, to initiate a test call to the other test probe by having the test call set up over the VoIP network via the VoIP gateway, which establishes the voice path as it is well known in the art, using VoIP protocols such as H.323, SIP and MGCP. (col. 1, lines 22+; col. 3, lines 52+; col. 5, lines 34-46).

In particular Goodman discloses a test probe sending a phone number of the other test probe, and based on this number, the gateway in the VoIP network establishing a voice path for the test call between the two test probes, i.e., originating and destination terminals. Thus the prior art discloses voice paths within a telecommunication device being allocated based on the test call initiation message, as claimed.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

8.   The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

> 1.   Determining the scope and contents of the prior art.
> 2.   Ascertaining the differences between the prior art and the claims at issue.
> 3.   Resolving the level of ordinary skill in the pertinent art.
> 4.   Considering objective evidence present in the application indicating
>   obviousness or nonobviousness.

9.   Claims 1-18 and 20-24 are rejected under U.S.C. 103(a) as being unpatentable

over Baj (US 2002/0145979) in view of Goodman (US 7,173,910).

Regarding **claims 1 and 9**, Baj discloses for use in a telecommunication

network, an apparatus for testing a telecommunication device comprising switching

fabric including a plurality of voice paths (system for testing hardware module in VoIP

network path per abstract), said apparatus comprising:

a test controller (gatekeeper per Fig. 2, element 14) configured to receive a test

call initiation message directed to the test controller from an originating terminal (Fig. 3;

para. 27, 31, 39; VoIP client, as originating terminal, sends a request, i.e., a test call

initiation message, to the gatekeeper, which routes the incoming VoIP call to specified

destination; the call is to establish transmission path for testing voice quality of VoIP

network; Fig. 1; para. 26-29; VoIP call from client server 20 goes to gatekeeper which

provides call-control services and routes calls to one of gateways), to prompt the

telecommunication device (gateway per Fig. 2, element 13b; gatekeeper route incoming

call to one of gateways per para. 27; it is well known to one of ordinary skill in the art at

the time of the invention that the gatekeeper interfaces with the gateway to establish

communications paths via standards VoIP protocols such as H.323, MGCP and RTP) to

allocate one of the voice paths within the telecommunication device for a test call based

on the test call initiation message (para. 27, 33, 34, 39; establishing transmission path

by gateway between VoIP client and destination phone; VoIP client executing call

initiation scripts and sending a request to place a series of calls through gateway, i.e.,

plurality of voice paths within the gateway), and to establish a call connection for the

test call between the originating terminal and a destination terminal via the allocated

voice path and a packet-switched network to test the allocated voice path. (first

establishing a transmission path between the VoIP client and destination phone, then

testing the quality of voice transmissions per para. 31, 34)

Baj discloses all of the subject matter as recited above. However, assuming in

arguendo Baj does not disclose a test call initiation message directed to the test

controller. Goodman from the same or similar fields of endeavor discloses a phone

number being used by an initiator test probe, i.e., test controller, to initiate a test call to

the other test probe by having the test call set up over the VoIP network via the VoIP

gateway, which establishes the voice path as it is well known in the art, using VoIP

protocols such as H.323, SIP and MGCP. (col. 1, lines 22+; col. 3, lines 52+; col. 5,

lines 34-46). Thus it would have been obvious to the person of ordinary skill in the art at

the time of the invention to have a test probe receiving the phone number and

generating a test call to as suggested by Goodman in the test environment of Baj. The motivation for doing so would have been to test voice path over a VoIP network.

Regarding **claims 2 and 10**, Baj further discloses wherein the voice paths comprise time division multiplexed (TDM) switched circuits (PSTN per Fig. 2 and para. 26).

Regarding **claims 3 and 13**, Baj discloses all of the subject matter except wherein the originating terminal and the destination terminal are Session Initiation Protocol (SIP) phones. Goodman from the same or similar fields of endeavor discloses wherein the originating terminal and the destination terminal are Session Initiation Protocol (SIP) phones (col. 5, lines 1-46; test probe supporting SIP instead of or in addition to H.323). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to use SIP phones as suggested by Goodman in Baj's network. The motivation for doing so would have been to use a powerful standard for VoIP communications.

Regarding **claims 4 and 14**, Baj further discloses the test call initiation message being addressed to an Internet Protocol (IP) address of the test controller (gatekeeper connected to Internet, identified by IP address per Fig. 2; para. 27).

Regarding **claims 5 and 15**, Baj discloses all of the subject matter except wherein the test call origination message is an INVITE message. Goodman from the same or similar fields of endeavor discloses using SIP for generating test calls (col. 5, lines 1-46). It is well known to one of ordinary skill in the art at the time of the invention

that an INVITE message is used to initiate a call. Thus it would have been obvious to

the person of ordinary skill in the art at the time of the invention to use the SIP message

to originate the test call as suggested by Goodman, specifically the INVITE message, in

Baj's network. The motivation for doing so would have been to use a powerful standard

for VoIP communications.

Regarding **claims 6 and 16,** Baj further discloses wherein the test controller is

configured to send a signaling message to an IP address of the destination terminal

(para. 27).

Regarding **claims 7 and 17,** Baj further discloses wherein the test controller is

configured to send a signaling message to a device controller within the

telecommunication device, the device controller allocating the allocated voice path

(para. 27).

Regarding **claims 8 and 11,** Baj further discloses wherein the allocated voice

path provides a connection to a media gateway for converting between circuit-switched

voice and packet-switched voice (conversion of media formats by gateways per para.

27).

Regarding **claim 12,** Baj further discloses the telecommunications system as set

forth in claim 9, wherein the telecommunication device comprises:

switching fabric including a plurality of voice circuits for switching voice calls

(para. 27-36); and

a controller operable to receive a signaling message from the test controller to establish the call connection for the test call through the packet-switched network, the controller being further operable to allocate one of the voice circuits for the test call to test the allocated voice circuit (para. 27-36).

Regarding **claim 18**, Baj further discloses wherein the telecommunication device is a switch (gateway per para. 33).

Claims 20, 21 and 22-24 are method claims corresponding to apparatus claims 1, 8 and 4-6, respectively, and are therefore rejected under the same reason set forth in the rejection of claims 1, 8 and 4-6, respectively.

10.   Claim 19 is rejected under U.S.C. 103(a) as being unpatentable over Baj in view of Goodman, and further in view of Dorenbosch, et al (US Pub 2002/0114317).

Regarding **claim 19**, the combination of Baj and Goodman discloses all of the subject matter as previously recited in this office action except wherein the switch is a mobile switching center. Dorenbosch from the same or similar fields of endeavor discloses system comprising an MSC (Fig. 3, element 302) communicating with a SIP peer/server (Fig. 3, element 206). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to combine the network of Baj and Goodman with the MSC of Dorenbosch by replacing the gateway with the MSC. The motivation for the combination would have been to support testing a voice path on a wireless system.

Conclusion

11.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUAT PHUNG whose telephone number is (571) 270-3126. The examiner can normally be reached on M-Th 7:30 AM - 5:00 PM, F 7:30 AM - 4:00 PM.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. P./

Examiner, Art Unit 2416

/Ricky Ngo/

Supervisory Patent Examiner, Art Unit 2416